
SENATE BILL No. 504

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Merit system for Marion County sheriff deputies. Establishes a merit system and procedures for discipline and removal for deputies of a sheriff's department (department) in a county having a consolidated city (city). Provides that the merit system and procedures for discipline and removal apply to full-time, fully paid employees of the department who exercise the powers of a law enforcement officer in the performance of duties for which the sheriff is responsible after the consolidation of the police department of the city and the county police force. Removes the limitation that a sheriff in a county having a consolidated city appoint only special deputies to serve as county jail guards.

Effective: July 1, 2011.

Arnold

January 18, 2011, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 504



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-10-10.6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10.6. (a) The sheriff
3 may appoint as a special deputy any person who is employed by a
4 governmental entity as defined in IC 35-41-1 or private employer, the
5 nature of which employment necessitates that the person have the
6 powers of a law enforcement officer. During the term of ~~his~~ **the special**
7 **deputy's** appointment and while ~~he~~ **the special deputy** is fulfilling the
8 specific responsibilities for which the appointment is made, a special
9 deputy has the powers, privileges, and duties of a county police officer
10 under this chapter, subject to any written limitations and specific
11 requirements imposed by the sheriff and signed by the special deputy.
12 A special deputy is subject to the direction of the sheriff and shall obey
13 the rules and orders of the department. A special deputy may be
14 removed by the sheriff at any time, without notice and without
15 assigning any cause, **except for those full-time employees entitled to**
16 **merit protection under IC 36-8-10.3.**
17 (b) The sheriff shall fix the prerequisites of training, education, and



1 experience for special deputies, subject to the minimum requirements
2 prescribed by this subsection. Applicants must:

- 3 (1) be twenty-one (21) years of age or older;
- 4 (2) never have been convicted of a felony, or a misdemeanor
5 involving moral turpitude;
- 6 (3) be of good moral character; and
- 7 (4) have sufficient training to insure the proper performance of
8 their authorized duties.

9 (c) Except as provided in subsection (d), a special deputy shall wear
10 a uniform the design and color of which is easily distinguishable from
11 the uniforms of the Indiana state police, the regular county police force,
12 and all municipal police and fire forces located in the county.

13 (d) The sheriff may permit a special deputy to wear the uniform of
14 the regular county police force if the special deputy:

- 15 (1) has successfully completed the minimum basic training
16 requirements under IC 5-2-1;
- 17 (2) is periodically assigned by the sheriff to duties of a regular
18 county police officer; and
- 19 (3) is an employee of the department.

20 The sheriff may revoke permission for the special deputy to wear the
21 uniform of the regular county police force at any time without cause or
22 notice.

23 (e) The sheriff may also appoint one (1) legal deputy, who must be
24 a member of the Indiana bar. The legal deputy does not have police
25 powers. The legal deputy may continue to practice law. However,
26 neither the legal deputy nor any attorney in partnership with ~~him~~ **the**
27 **legal deputy** may represent a defendant in a criminal case.

28 (f) The sheriff, for the purpose of guarding prisoners in the county
29 jail

30 ~~(1) in counties not having a consolidated city, may appoint special~~
31 ~~deputies to serve as county jail guards. and~~

32 ~~(2) in counties having a consolidated city, shall appoint only~~
33 ~~special deputies to serve as county jail guards.~~

34 This subsection does not affect the rights or liabilities accrued by any
35 county police officer assigned to guard the jail before August 31, 1982.

36 SECTION 2. IC 36-8-10.3 IS ADDED TO THE INDIANA CODE
37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2011]:

39 **Chapter 10.3. Sheriff's Department Deputies in a County**
40 **Containing a Consolidated City**

41 **Sec. 1. This chapter applies, after June 30, 2011, to a county**
42 **having a consolidated city.**

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1 **Sec. 2.** As used in this chapter, "board" refers to the sheriff's
2 deputy merit board established under section 5 of this chapter.

3 **Sec. 3.** As used in this chapter, "department" refers to the
4 sheriff's department in a county having a consolidated city.

5 **Sec. 4. (a)** As used in this chapter, "deputy" means a full-time,
6 fully paid employee of the department who exercises the powers of
7 a law enforcement officer in the performance of duties for which
8 the sheriff is responsible under IC 36-3-1-5.1(d).

9 **(b)** A deputy is not a county police officer as that term is used in
10 IC 36-8-10.

11 **Sec. 5. (a)** The city-county legislative body shall, by ordinance,
12 establish a sheriff's deputy merit board.

13 **(b)** The board consists of the following five (5) members:
14 **(1)** Three (3) members appointed by the sheriff.
15 **(2)** Two (2) members elected by a majority vote of the
16 department's deputies under procedures established by the
17 sheriff's deputy merit board.

18 However, a deputy currently employed by the department may not
19 serve on the board.

20 **(c)** Appointments are for terms of four (4) years or for the
21 remainder of an unexpired term.

22 **(d)** Not more than two (2) of the members appointed by the
23 sheriff and not more than one (1) of the members elected by the
24 officers may belong to the same political party. All members must
25 reside in the county.

26 **(e)** All members serve during their respective terms and until
27 their successors have been appointed and qualified.

28 **(f)** A member may be removed for cause duly adjudicated by
29 declaratory judgment of the circuit court of the county.

30 **(g)** As compensation for service, each member of the board is
31 entitled to receive from the county a minimum of fifteen dollars
32 (\$15) per day for each day, or fraction of a day, that the member
33 is engaged in transacting the business of the board.

34 **(h)** As soon as practicable after the members of the board have
35 been appointed, they shall meet upon the call of the sheriff and
36 organize by electing a president and a secretary from among their
37 membership.

38 **(i)** Three (3) members of the board constitute a quorum for the
39 transaction of business.

40 **(j)** The board shall hold regular monthly meetings throughout
41 the year as is necessary to transact the business of the department.

42 **Sec. 6. (a)** Except for temporary administrative ranks or

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1 positions established and appointed by the sheriff under section 8
 2 of this chapter, the sheriff, with the approval of the board, shall
 3 establish a classification of ranks, grades, and positions for
 4 deputies. For each rank, grade, and position established, the
 5 sheriff, with the approval of the board, shall:

- 6 (1) set reasonable standards of qualifications; and
 7 (2) fix the prerequisites of:
 8 (A) training;
 9 (B) education; and
 10 (C) experience.

11 (b) The sheriff, with the approval of the board, shall devise and
 12 administer examinations designed to test applicants for the
 13 qualifications required for the respective ranks, grades, or
 14 positions. After these examinations, the sheriff and the board shall
 15 jointly prepare a list naming only those applicants who, in the
 16 opinion of both the sheriff and the board, best meet the prescribed
 17 standards and prerequisites. The sheriff hires deputies but only
 18 from among the persons whose names appear on this list.

19 (c) All deputies hired by the sheriff under this section are on
 20 probation for a period of one (1) year from the date of hiring.

21 (d) Deputies hired by the sheriff under this section:

- 22 (1) are entitled to receive the special death benefit provided
 23 under IC 5-10-10;
 24 (2) are members of the public employees' retirement fund
 25 established under IC 5-10.3; and
 26 (3) are not entitled to participate in the pension trust
 27 established by the department under IC 36-8-10-12.

28 Sec. 7. (a) This section applies to an individual who, on July 1,
 29 2011:

- 30 (1) has been a full-time, fully paid employee of the department
 31 for at least one (1) year; and
 32 (2) has successfully completed the minimum basic training
 33 requirements under IC 5-2-1, as determined by the sheriff.

34 (b) An individual who meets the requirements of subsection (a)
 35 is exempt from the following:

- 36 (1) Being required to apply under the classification system
 37 established by section 6(a) of this chapter in order to remain
 38 employed with the department.
 39 (2) Serving a one (1) year probationary period under section
 40 6(c) of this chapter.

41 Sec. 8. (a) The sheriff may establish a temporary administrative
 42 rank or position that is not part of the classification system

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1 described in section 6(a) of this chapter without the approval of the
 2 board.

3 (b) Any temporary administrative rank or position established
 4 under this section shall not diminish or reduce the number and
 5 classifications of the existing merit ranks of the classification
 6 system established under section 6(a) of this chapter. A deputy
 7 retains the rank, grade, or position awarded under section 6 of this
 8 chapter while serving in a temporary administrative rank or
 9 position.

10 (c) This section may not be construed to limit, modify, annul, or
 11 otherwise affect a collective bargaining agreement.

12 Sec. 9. (a) The sheriff, with the approval of the board, shall
 13 establish written rules and regulations governing the discipline of
 14 deputies employed by the department.

15 (b) Rules and regulations established by a sheriff under this
 16 section must conform to the disciplinary procedure required by
 17 sections 10 through 13 of this chapter.

18 Sec. 10. (a) The sheriff may dismiss, demote, or temporarily
 19 suspend a deputy for cause after:

20 (1) the sheriff prefers charges in writing; and
 21 (2) a fair public hearing before the board.

22 (b) A deputy on probation may be dismissed by the sheriff
 23 without a right to a hearing.

24 (c) Written notice of the charges and hearing must be delivered
 25 by certified mail to the deputy to be disciplined at least fourteen
 26 (14) days before the date set for the hearing.

27 (d) The deputy may be represented by counsel.

28 (e) The board has subpoena powers enforceable by the circuit
 29 court for hearings under this section.

30 (f) The board shall make specific findings of fact in writing to
 31 support its decision.

32 (g) The board's decision is reviewable in the circuit court.

33 Sec. 11. The sheriff may temporarily suspend a deputy with or
 34 without pay for a period not exceeding fifteen (15) days, without a
 35 hearing before the board, after preferring charges of misconduct
 36 in writing delivered to the deputy.

37 Sec. 12. (a) A deputy may not be dismissed, demoted, or
 38 temporarily suspended because of political affiliation nor after the
 39 deputy's probationary period, except as provided in sections 10
 40 through 13 of this chapter.

41 (b) A deputy may:

42 (1) be a candidate for elective office and serve in that office if

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1 elected;

2 (2) be appointed to an office and serve in that office if

3 appointed; and

4 (3) except when in uniform or on duty, solicit votes or

5 campaign funds for the deputy or others.

6 **Sec. 13. (a) An appeal under section 10(g) of this chapter must**

7 **be taken by filing in court, within thirty (30) days after the date the**

8 **decision is rendered, a verified complaint stating the following in**

9 **a concise manner:**

10 (1) The general nature of the charges against the deputy.

11 (2) The decision of the board.

12 (3) A demand for the relief asserted by the deputy.

13 (b) Along with the verified complaint described in subsection

14 (a), a bond must be filed that guarantees:

15 (1) the appeal will be prosecuted to a final determination; and

16 (2) the plaintiff will pay all costs only if the court finds that

17 the board's decision should be affirmed.

18 (c) The bond described in subsection (b) must be approved as

19 bonds for costs are approved in other cases.

20 (d) The county must be named as the sole defendant in the

21 complaint, and the plaintiff shall have a summons issued as in

22 other cases against the county. Neither the board nor the members

23 of the board may be made parties defendant to the complaint, but

24 all are bound by service upon the county and the judgment

25 rendered by the court.

26 (e) The court shall try all appeals. The appeal shall be heard de

27 novo only upon any new issues related to the charges upon which

28 the decision of the board was made.

29 (f) Within ten (10) days after the service of summons, the board

30 shall file in court a complete written transcript of all papers,

31 entries, and other parts of the record relating to the particular

32 case. The board shall permit inspection of these documents by the

33 person affected, or by the person's agent, before the appeal is filed,

34 if requested. The court shall review the record and decision of the

35 board on appeal.

36 (g) The court shall make specific findings and state the

37 conclusions of law upon which its decision is made. If the court

38 finds that the decision of the board appealed from should in all

39 things be affirmed, its judgment should so state. If the court finds

40 that the decision of the board appealed from should not be

41 affirmed in all things, then the court shall make a general finding,

42 setting out sufficient facts to show the nature of the proceeding and

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1 the court's decision on it. The court shall either:
2 (1) reverse the decision of the board; or
3 (2) order that the decision of the board be modified.
4 (h) Either party may appeal the final judgment of the court.
5 (i) Upon the final disposition of the appeal by the courts, the
6 clerk shall certify to and file a copy of the final judgment of the
7 court with the board. The board shall conform its decisions and
8 records to the order and judgment of the court. If the decision is
9 reversed or modified, then the board shall pay to the party entitled
10 to it any salary or wages withheld from the party pending the
11 appeal and to which the party is entitled under the judgment of the
12 court.
13 (j) Either party shall be allowed a change of venue from the
14 court or a change of judge in the same manner as changes are
15 allowed in civil cases.
16 (k) The rules of trial procedure govern in all matters of
17 procedure that are not otherwise provided for by this section.
18 (l) An appeal takes precedence over other pending litigation and
19 shall be tried and determined by the court as soon as practical.

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